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ABSTRACT

The school finance reform movement of the 1970's got a fast start in August 1971 when the California Supreme Court announced its decision in Serrano v. Priest. In the 20 months following the Serrano decision, scores of school finance suits were filed throughout the country. The momentum initiated by the California Supreme Court was clearly on the side of the plaintiffs. On March 21, 1973, the United States Supreme Court announced its decision in San Antonio Independent School System v. Rodriguez and reversed the momentum that Serrano had begun. Nearly 50 suits have been disposed of in Rodriguez's wake--most terminated voluntarily by the plaintiffs; a few decided in favor of the defendants on motions to dismiss. Despite this apparent setback, the overwhelming number of dismissals in school finance cases should not be interpreted as the demise of school remains viable. Indeed, the measured pace the movement has followed in the past year has begun to pick up once again. This booklet discusses terminated and pending school finance reform court cases, in each case identifying the parties involved, describing the issues, and stating the case's status. (Author/JF)

A SUMMARY OF STATE-WIDE SCHOOL FINANCE CASES

May, 1974
School Finance Project
LAWYERS' COMMITTEE FOR
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PREFACE

The School Finance Reform Movement of the 1970's got a fast start in August 1971 when the California Supreme Court announced its decision in *Serrano v. Priest*. In the twenty months following the *Serrano* decision, scores of school finance suits were filed throughout the country. These suits were of varying quality. Some exhibited extensive preparation; others appeared to have been hastily filed. Yet, irrespective of the quality of the prosecution of those suits, the momentum initiated by the California Supreme Court was clearly on the side of plaintiffs.

On March 21, 1973 the U.S. Supreme Court announced its decision in *San Antonio Independent School System v. Rodriguez* and reversed the momentum that Serrano had begun. *Rodriguez* did not stop school finance reform completely. In the 14 months following *Rodriguez*, more than a dozen states dramatically reformed their school finance systems. Indeed, the inequalities which inhere in most state school finance systems were sufficiently revealed by the persuasive logic of *Serrano* decision and acknowledged incidentally, by the U.S. Supreme Court in *Rodriguez* to prompt state policy makers throughout the nation to take a much closer look at the way their schools are funded.

Rodriguez has had significant effect on school finance litigation. Nearly 50 suits have been disposed of in *Rodriguez's* wake most terminated voluntarily by the plaintiffs; a few decided in favor of the defendants on motions to dismiss. Despite this apparent setback, the overwhelming number of dismissals in school finance cases should not be interpreted as the demise of school finance reform litigation. On the contrary, the movement to reform school finance systems remains viable. Indeed, the measured pace the movement has followed in the past year has begun to pick up once again.

In April 1973, one month following the announcement of *Rodriguez*, the Lawyers' Committee's School Finance Project held a post-*Rodriguez* conference in Chicago for attorneys handling school finance suits. At the conference it became apparent to all that if the school finance reform litigation movement was to survive it must slow up and regroup. That is, to regain the momentum started by *Serrano*, the movement must minimize defeats and wait for new victories which should be possible in a few selected cases. The cases which show the most promise are those in states with the following three characteristics: (1) wide disparities among districts in educational opportunities, (2) state constitutional provisions and precedents that are favorable toward a reform oriented suit, and (3) a sufficiently activist state judiciary to condemn educational inequities that run afoul of state constitutional provisions. As the following summary of cases demonstrates, that strategy is working.

Less than three weeks following the announcement of the *Rodriguez* decision, the New Jersey Supreme Court, in the case of *Robinson* v. *Cahill*, declared unconstitutional the New Jersey system of school finance. The *Robinson* case epitomizes the three features noted above as necessary prerequisites for effective school finance reform litigation. New Jersey has dramatic educational inequalities, favorable precedent under its state constitution, and a reform oriented judiciary. The *Robinson* decision has prompted at least one other court to adopt the rationale employed by the New Jersey Supreme Court. In November 1973 a lower state court in Idaho declared the Idaho system of school finance unconstitutional. An appeal of that decision is now pending before the Idaho Supreme Court.

However, an equally promising legal standard for school finance litigation is still "fiscal neutrality" as formulated by the California Supreme Court in *Serrano* v. *Priest*.

After the Supreme Court of California developed the fiscal neutrality standard, the *Serrano* case was remanded to a trial judge in Los Angeles to determine whether or not the factual allegations made by the plaintiffs in their original complaint were true. After a five months trial, the lower court in April 10, 1974 announced its decision based upon the California Supreme Court's earlier holdings, its finding

for the plaintiffs on the facts, that the current system of school finance in California is unconstitutional because it provides unequal education opportunities on account of dependence on local taxable wealth.

If a state has an equal protection provision in its state constitution and if the provision has been interpreted to operate substantially the same as the fourteenth amendment to the U.S. Constitution, the *Serrano* precedent may be useful.

It is expected that other *Serrano*-type decisions will follow. Cases in Oregon and Washington, (see "Pending" section of Summary) which are modelled almost completely after the California case are still pending and awaiting decision.

Other new legal theories beside *Serrano* and *Robinson* offer promise. The plight of urban school districts has never been adequately addressed by the school finance reform litigation movement. We are hopeful that in the next few years legal theories will be accepted which would require a state to recognize more adequately the special funding needs of urban school districts. Currently, the two most promising suits in this area are *Keitt v. Ross* in Pennsylvania and *Timility v. Sargent* in Massachusetts.

However, if school finance reform litigation is ultimately to be successful, it will be because of meticulously prepared well thought out suits. Reform will not come simply by filing a model complaint and preparing a few tables illustrating inequalities among selected districts. Attorneys must be committed to spending enough time to adequately develop appropriate legal theories and to marshal the facts needed to support these theories. These are not small cases. The Lawyer's Committee's School Finance Project is committed to working with attorneys and who need assistance in either of these tasks. To this end, we have prepared a research guide to attorneys who are bringing school finance reform litigation in state courts. A copy of this guide, entitled "Legal Research Questions for Analysis of the Education and Equal Protection Provisions of State Constitutions" is available from the Lawyers' Committee at no charge.

EXPLANATION OF THE CASE SUMMARY

The summary is organized as follows. The case descriptions are divided into two categories: "pending" and "terminated." The cases are presented alphabetically by state, and when there is more than one case per state, the cases are listed alphabetically by the name of the plaintiff.

This summary was prepared with the use of the Lawyers Committee's School Finance Project case files. The Project maintains an extensive set of pleading files for all pending and terminated school finance reform litigation. Where these filed were inadequate, special efforts were made to contact the attorneys to determine the exact status of their suits. In some instances it was impossible to contact these attorneys, and consequently assumptions about the status of some cases were made by Project staff in preparing the summary.

If you find errors, or if you know of any cases which are not included, please let us know. Such comments should be directed to the School Finance Project, 520 Woodward Building, Washington, D.C. 20005.

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PENDING

ALASKA

Hootch v. Alaska State-Operated School System, 72-2450 (Alaska Superior Third Judicial District). Eskimos and Alaskan Indian children complain that they are deprived of equal or adequate educational opportunities.

The Parties. Plaintiffs are Alaska Native (Eskimo, Indian and Aleut) school age children. Defendants are the Alaska state operated school system which provides education in the unorganized borough of the State of Alaska, members of the school system's board and officials of the Alaska Department of Education.

Description. Plaintiffs allege that a disproportionate number of Alaskan natives must leave their homes and enter boarding schools in order to obtain a secondary education, as compared to children who reside in predominantly white villages of the same size. In villages with predominantly white populations, it is alleged that defendants are more likely to provide secondary schools or daily transportation to a secondary school. Consequently, many members of plaintiffs's class, not wishing to leave their homes for nine months each year, do not receive a secondary education, and correspondence courses are seldom provided and do not meet defendants' standards for secondary schools. Plaintiffs allege a violation of their right to education under Article 7, Section 1 of the Alaskan Constitution which requires the legislature to establish and maintain a system of public schools open to all children of the state and the statutory right to a secondary education in the community of the child's residence. Plaintiffs also claim racial discrimination under the Alaska and Federal constitutions' equal protection provisions. Additionally, plaintiffs claim the defendants' conduct constitutes unlawful geographical discrimination. Redress for past discrimination is also sought, including the waiving of the maximum school age for free public education for those children previously denied secondary education.

Status. The case was filed August 10, 1972. On May 17, 1973, a temporary restraining order preventing the expenditure of Johnson-

O'Malley funds on the ground of racial discrimination was issued. Plaintiffs' motion for summary judgment is pending.

CALIFORNIA

Serrano v. Priest, 96 Cal. Rptr. 601, 487 P.2d 1241 (1971); further proceedings, No. C-938,254, California Superior Court, Los Angeles County. The Landmark decision of the California Supreme Court holding the state school finance system unconstitutional on state and federal equal protection grounds because it made the quality of education a function of local school districts' taxable wealth.

The Parties. Plaintiffs are school children and their taxpaying parents from a number of Los Angeles County school districts. Defendants are the treasurer, tax collector and superintendent of public schools for Los Angeles County and the treasurer, comptroller and superintendent of public instruction for the State of California.

Description. The complaint file in *Serrano* became the model for most other suits filed after the California Supreme Court decision in this case. The suit challenges discrimination against both children and taxpayers in poor districts. Plaintiffs claim that there are substantial disparities among school districts in California in tax base per pupil and that these disparities result in substantial disparities among districts in dollar amounts spent per pupil for public education, and that the educational opportunities available to children in tax poor districts are substantially inferior to those available for children in wealthier districts.

Status. This suit was filed on August 23, 1968. The complaint was dismissed by the California Superior Court which was affirmed by the California Court of Appeals. The California Supreme Court, on August 30, 1971 reversed the decision dismissing the complaint and remanded the case to the trial court for further proceedings. The California Supreme Court upheld the complaint primarily on the basis of the claim that the education finance system in California makes the quality of education for school age children in California a function of the wealth of a child's parents and neighbors as measured by the tax base of the school district in which the child resides. However, the court indicated that plaintiffs must still prove their allegations at trial in order for the California's school finance system to be held unconstitutional.

After the case was remanded to the trial court there was a period in which substantial discovery took place. A five month trial was completed in May, 1973. The major issue at the trial was the relationship between educational cost, educational achievement and the effect of a recent statutory revision to the school finance system on the inequities claimed by the plaintiffs. Which ever way the case is decided at the trial court it is sure to be appealed again to the California Supreme Court.

(California)

On April 10, 1974 the trial court declared the California System of School Finance unconstitutional as a violation of the equal protection provisions in the state constitution. In a lenghty opinion [available from the Lawyers' Committee for $1.00] the trial court found that the current financing scheme in California, notwithstanding the rather dramatic increases in State aid enacted in 1972, still made the quality of education a function of the local wealth of school districts. The trial court held that the plaintiffs "established the truth of the allegations in their complaint," and it pointed out the following objectional features in the current financing system:

> "The basic aid payment of $125 per pupil to high wealth school districts."
>
> "The right of voters of each school district to vote tax overrides and raise unlimited funds at their discretion;"
>
> Disparities of greater than $100 between school districts in per pupil expenditures, apart from the categorical aids special-needs programs. (These disparities are to be eliminated within six years, according to the court.)
>
> Substantial variations in tax rates between school districts. (These variations are to be minimized within six years.)

CONNECTICUT

• *City of Hartford* v. *Meskill*, Civ. No. 15,074, U.S. District Court, District of Connecticut; challenge to Connecticut's School District Laws because they present an irrational and unreasonable barrier to the desegregation of Hartford.

The Parties. Plaintiffs (in the amended complaint) are the mayor, treasurer and members of the City Council in Hartford. Defendants are the Governor of Connecticut, the chairman, secretary and members of the State Board of Education.

Description. Plaintiffs claim that the School District Laws violate the equal protection and due process clauses of the fourteenth amendment since they prevent the desegregation of Hartford's schools with contiguous suburban communities and place an undue burden on the residents of Hartford, a city which they allege has a rising number of economically disadvantages persons, a shrinking tax base and confiscatory tax rates. All these things combine to severely limit the city's ability to provide greatly needed municipal services, especially public education, and those services that are provided are inadequate and inferior compared to those available at much less effort in contiguous suburban areas that are primarily white, middle and upper-middle class.

Status. The suit was originally filed in May, 1972, with the City of Hartford as one of the plaintiffs. When the District Court ruled that the city had no standing to sue the State, the rest of the plaintiffs filed an amended complaint (Sept. 1973). Plaintiffs had asked that a 3-judge panel be convened to hear the case, and defendants have made a motion to dismiss the case. So far the District Court Judge has refused to convene the panel either to try the case or to rule on the motion to dismiss.

FLORIDA

Lesesne v. Askew, Circuit Court for Leon County, Florida.

The Parties. A class of taxpayers from Osceola County brought this action against the Governor, the heads of the Department of Revenue, the State Board of Education, the State Department of Education and the State Department of Revenue.

Description. Plaintiffs allege that the recently enacted Florida school finance system which provides more money per pupil to school districts with low valuations is unconstitutional because it discriminates against counties where assessments of property are made at 100% of true and actual value. Those counties, including plaintiffs' county, who assess at 100% of true and actual value receive relatively less state aid under the school finance program than they would if they assessed at less than true value, a situation they allege to exist in a number of other Florida counties. The plaintiffs allege that the problem of reduced assessments and the discriminatory impact that the varying assessments have on plaintiffs' county violates the Florida constitutional provision which requires the state to provide a "uniform system of free public schools" and deprives plaintiffs of their property without due process of law in violation of the Florida constitution and the fourteenth amendment to the U.S. Constitution. Additionally, they request the court to declare the sytem unconstitutional as a violation of the equal protection clause of the state and federal constitutions. Plaintiffs seek to reform the allocation and distribution of state funds under the state's new school finance system.

Status. The state moved to dismiss the plaintiff's amended complaint and on March 22, 1974 the trial court denied the state's motion. An interlocutory appeal on the denial of the motion to dismiss is being planned by the state.

IDAHO

Pocatello School District, No. 25 v. Enoch Long, Civil Action No. 17055 (D.C., County of Ada).

The Parties. Plaintiffs are school children and their tax-paying parents who reside in the Pocatello School District No. 25. Defendants are the State Superintendent of Public Instruction, the members of the State Board of Education, the State Auditor and the State Treasurer. Additionally, several local elected officials are defendants including the Auditor, Treasurer and Assessor for several counties throughout the State.

Description. This action was initially filed as a *Serrano*-type suit. However, the legal theories relied upon by the plaintiffs have evolved substantially since the U.S. Supreme Court announced its decision in *Rodriguez*. Drawing heavily upon pronouncements by the New Jersey Supreme Court in *Robinson v. Cahill*, the plaintiffs have transformed their constitutional challenge into one that rests less upon the equal protection provisions of the Idaho constitution and more upon the education provision. This latter constitutional provision requires the state to "establish and maintain a general, uniform and thorough system of public, free, common schools for all the children in the state. . . ."

Status. During the summer of 1973 the case was tried based upon stipulated facts and procedures. On November 16, 1973 the trial court issued a written opinion declaring Idaho's school financing system to be unconstitutional in that it "does not provide for a uniform system of public schools as required by [the state constitution]." An appeal was taken by the State to the Idaho Supreme Court; briefs have been submitted, an argument is scheduled for late May, 1974. A decision by the Idaho Supreme Court is expected by the end of 1974.

MASSACHUSETTS

Tinsley v. Sargent, Civil Action No. 97055 (Sup. Ct. Suffolk County). *Serrano*-type suit.

The Parties. A Boston school child and his tax-paying parent are suing the Governor, the State Commissioner of Education, the Treasurer and the Auditor of the Commonwealth of Massachusetts.

Description. Plaintiffs originally filed a *Serrano*-type complaint in the U.S. District Court for the District of Massachusetts. In that action they claimed (a) that the Massachusetts' statutory scheme for financing public education resulted in wide disparities in the financial resources available per pupil, (b) that the amounts expended per pupil among the various Massachusetts schools also varied, (c) that the rates of taxation between districts also varied widely as a direct result of the reliance by the Massachusetts scheme upon local property tax bases, and (d) that the selection of local cities and towns as the primary taxing base for public school funding violated the 14th amendment of the U.S. Constitution. After the U.S. Supreme Court announ-

ced its decision in *Rodriguez v. San Antonio Independent School District*, the plaintiff voluntarily dismissed their suit in U.S. District Court and refiled a similar complaint in the state courts of Massachusetts. In their state court suit the plaintiffs ask the court for a declaration that the Massachusetts system for providing the financing of public elementary and secondary schools violates the state and federal constitutional guarantees of due process and equal protection.

Status. The State of Massachusetts filed a demurrer to the plaintiffs' complaint, and the case is set for argument on the demurrer in June, 1974.

OREGON

Olsen v. Oregon, No. 72-0569, Circuit Court of Lane County; challenge to Oregon's school finance system based on state constitution's education and equal protection clauses.

The Parties. This is a class action on behalf of all public school children in Oregon, all children in the state whose family resources are so limited as to require them to attend public schools and the children's and the parent taxpayers, except for those in the school districts with the greatest wealth per pupil subject to local taxation for public education. By stipulation, the defendants are limited to the State Attorney General and Superintendent of Public Instruction. The original complaint also named several other state officials and representatives of the class of county and school district officials, but the court ordered the complaint dismissed against these defendants without prejudice in March 1972.

Description. Plaintiffs contend that Art VIII, Sec. 3 of Oregon's constitution requiring the legislature to ". . . provide by law for the establishment of a uniform, and a general system of common schools," establishes education as a "fundamental interest" for the purposes of the state's equal protection clause and calls into play the "strict scrutiny" test in judging the validity of the school finance system. They also contend that the "uniform and general" language itself requires that the quality of a child's education as measured by dollar expenditures not be a function of the wealth of that child's family, school district or any entity other than the State as a whole. They claim that Oregon's school finance system is ineffective in equalizing spending from district to district, so that wealthy districts have significantly higher educational expenditures with less tax effort than poorer districts, and that the "flat grant" provision of the system has a disequalizing effect. The plaintiffs also claim that the system violates the State's equal protection and tax uniformity provisions with regard to the plaintiff parent-taxpayers.

Status. The suit was filed early in 1972. It was tried before a state circuit court judge in September, 1973 on an agreed statement of facts. The trial was concluded on Tuesday, September 25, 1973. Attorneys for the parties are now preparing post-trial briefs and a decision is expected within the next few months.

PENNSYLVANIA

Danson v. Commonwealth of Pennsylvania, No. 72-2448 (D.C.D. Pa.). Suit challenging the failure of the state to provide sufficient funds to keep the Philadelphia schools open for a full school year.

The Parties. Plaintiffs are parents of Philadelphia school children and the school district of Philadelphia. Defendants are the state of Pennsylvania, the state treasurer and secretary of education.

Description. The plaintiffs claim that the state requires a minimum of 990 instructional hours for all children, and that all school districts in the state except for Philadelphia are able to provide this amount of education. Plaintiffs challenge this as a discrimination against Philadelphia school children under the equal protection clause of the 14th amendment. Philadelphia alleges that it is at the maximum tax rate and at the debt limit, but yet has insufficient funds to keep the schools open for a full school year. This suit is very similar to *Keitt v. Ross* (see above); however, *Keitt* seeks relief in state court against the city of Philadelphia which has the power to increase tax rates for educational purposes.

Status. Complaint was filed on December 11, 1972. Plaintiffs have moved for summary judgment and for the convening of a three-judge court. Defendants motion to dismiss or abstain is pending.

(Pennsylvania)

Keitt v. Ross, (Commonwealth Ct., Pa.) Suit challenging the failure of the Philadelphia city and school district to provide sufficient funds to keep the Philadelphia schools open for a full school year.

The Parties. Plaintiffs are public school children, their parents and student and education organizations in Philadelphia. Defendants are the Mayor and City Council of Philadelphia and the members of the Philadelphia Board of Education.

Description. The Mayor and City Council of Philadelphia refused to provide sufficient taxing authorization to the school district of Philadelphia to balance the school district's budget and enable it to keep schools open for a full school year in 1972-73. Subsequently, a teacher's strike closed the schools for about 2 months, the same amount of time that the schools would have been closed had the district run out of funds. This eliminated the school district's deficit but Philadelphia school children lost 2 months of schooling, and neither

the school district nor the city has taken any action to compensate for such loss. Plaintiffs claim that the defendants' failure to provide 180 days of schooling violates the Pennsylvania statute requiring a school term of that length, the Pennsylvania Constitution's requirement of a thorough and efficient education, the 14th amendment's equal protection clause, and home rule charter provisions requiring a balanced budget and the levy of taxes in amounts sufficient to provide for the current operations of the schools.

Status. A complaint was filed in September 1972; an amended complaint in January 1973. The court in which the complaint was originally filed, the Court of Common Pleas for Philadelphia County, sustained the complaint over defendants preliminary objections. Defendants appealed to the Commonwealth Court which sustained the trial court. Thereafter the Philadelphia city defendants filed a complaint in the same action against state officials on the basis of the plaintiffs' claims. The case was then transferred to Commonwealth Court which has jurisdiction over actions brought against the state. Substantial discovery has already been taken.

WASHINGTON

Northshore School District v. Kinnear, Supreme Court of Washington, Docket No. 42352, *Serrano*-type suit.

The Parties. Plaintiffs are school districts, school children and their guardians *ad litem*, parents of school children, school directors and tax payers of the State of Washington. The defendants are the State Department of Revenue, the State Superintendent of Public Instruction, the State Treasurer and members of the Board of Education in the State of Washington, and the State of Washington.

Description. Plaintiffs allege that as a direct result of the state school financing scheme, which makes the quality of every child's public education a function of the taxable wealth per pupil of the school district in which he resides, substantial disparity among the state school district exists in the dollar amount spent per pupil and therefore in the quality and extent of available educational opportunities as well as in the rate of taxes which must be paid for the same or lesser educational opportunities in violation of the state's duty to provide for the ample provision of education and of the State of Washington's and the United States' constitutional provisions guaranteeing equal educational opportunity. Plaintiffs ask the court to declare the financing sytem void as repugnant to the equal protection clause of the 14th amendment of the U.S. Constitution and similar provisions in the State of Washington's constitution and to direct the defendants to reallocate the funds available for financial support of the school system, consistent with equal protection guarantees, or in the alternative to retain jurisdiction affording defendants and the

legislature a reasonable time to restructure the school finance system consistent with the U.S. and Washington constitutions.

Status. The case was filed in the Washington State Supreme Court in April 1972. The original jurisdiction of the court was appropriate because of a state procedural rule allowing for appellate jurisdiction in actions against state officers. In 1973 the Northshore school district was struck as one of the party plaintiffs. The case has been briefed and argued before the State Supreme Court and is now awaiting decision.

TERMINATED

ARIZONA

Hollins v. *Shofstall*, 515 P.2d 590 (Ariz. Sup. Ct. 1973). *Serrano* type suit.

The Parties. Plaintiffs were public school students and their taxpaying parents from Maricopa County, Arizona. Defendants were the Supreintendent of the Arizona Department of Education, the Arizona Board of Education, the Treasurer and Attorney General of Arizona, and the Superintendent of the Maricopa Public Schools.

Status. Plaintiffs filed a *Serrano*-type complaint on October 12, 1971 in the Arizona Superior Court for Maricopa County. Nine months later, on June 1, 1972, the trial court granted a summary judgment for the taxpayer plaintiffs on the grounds that the system of school financing unconstitutionally discriminated against them under the state and federal equal protection clauses. As for the student plaintiffs, the trial court found that they had suffered no unconstitutional injury or inequality in their right to an education and therefore denied their motion for summary judgment. It did however order that its declaratory judgment with respect to the taxpayers' claim would not take effect until and after the close of the thirty-first (31st) legislature in 1974. Subsequently, the Arizona legislature repealed its entire school financing statutory framework effective July 1, 1974 (laws 1973, Chapter 182, §13). On November 2, 1973, the Arizona Supreme Court reversed the trial court's order and remanded the case for further proceedings. In its decision, the State Supreme Court did hold that the Arizona "Constitution does establish education as a fundamental right of pupils between the ages 6 and 21 years." Notwithstanding the fundamentality of education, the court held that the applicable standard to judge the constitutionality of the Arizona system of school finance was whether it had a "rational and reasonable basis, . . . which meets the educational mandates of the [Arizona] constitution. . . ." It held that the Arizona school finance system did meet that standard and despite the fact that taxpayers in

some municipalities had a greater tax burden than taxpayers of others, with respect to the constitutional clauses of the taxpayers, the court could find "no magic in the fact that the school district taxes herein complained of are greater in some districts than others." [*Cite*, 515 P.2d 590 (1973)].

ARKANSAS

Milligan v. *Yarborough*, Civ. Action No. H-72-C-7, U.S. District Court for the Western District of Arkansas (Harrison Division); Challenge to Arkansas' Minimum Foundation Program and request for injunctive relief against the issuance of school district bonds to finance school construction.

The Parties. Plaintiffs were residents and property owners in Marion County Rural School District No. 1 and represented the class of all persons similarly situated. Defendants were the superintendent and board of directors of the school district, the governor and attorney general of Arkansas, the state board of education and the director of the Arkansas Education Department, the Secretary and the Acting Deputy Assistant Secretary of HEW, and the Regional Director of HEW.

Description. Plaintiffs claimed that they were being denied equal protection under the fourteenth amendment in regard to two aspects of educational funding. First, they claimed that, with regard to locally raised funds, the method of levying taxes and the varying rates of taxes among the 388 school districts in the state caused the wealth of the respective districts to determine the quality of education and physical facilities of schools in those districts. In relation to this claim, they sought to enjoin the issuance of a school construction bond levy pursuant to a district election, since the entire school district would be required to pay for the bond issue, while only part of the district could possibly benefit from the school facility to be built.

Secondly, they challenged the State's Minimum Foundation Program, claiming that it violated the fourteenth amendment (1) by its "hold-harmless" provision, (2) because the amount of state funds distributed under the program was unrelated to the millage rates levied or the taxes collected from each district and (3) because the program failed to equalize per pupil expenditures throughout the state.

Plaintiffs asked the court to declare the school finance system unconstitutional and to enjoin the distribution of state funds under it, as well as to enjoin the issuance of the school bond issue.

Status. The suit was filed in April, 1972 and dismissed in light of the result in the *Rodriguez* case. The plaintiffs' attorneys are contemplating another suit in state court based on the state's constitutional responsibility to provide education.

COLORADO

Evelan Allan v. County of Otero, District Court of the County of Otero, C.A. No. 9911, Filed September 3, 1971. *Serrano*-type suit.

The Parties. Plaintiffs were property owners and parents of school children in the East Otero School District. Local defendants included the County Board of Commissioners, the Assessor and Treasurer and the local school board. The Colorado State Tax Commission was also a defendant.

Description. Plaintiffs filed a *Serrano*-type complaint several days after the California Supreme Court announced its decision in *Serrano v. Prest* in August.

Status. The State Attorney General filed a motion to dismiss and that motion was granted after the U.S. Supreme Court announced its decision in *San Antonio Independent School District v. Rodriguez*.

CONNECTICUT

Jelliffe v. Berdon, Civ. Action No. 14821, U.S. District Court for the District of Connecticut; *Serrano*-type challenge to Connecticut's school finance system.

The Parties. Plaintiffs were public school children and their parents in Connecticut who represented the class of (1) all public school children in the state except those children who reside in the school district with the greatest wealth per pupil, (2) all children in the state who are compelled to attend public schools because their families do not have sufficient resources to pay for private educational alternatives, and (3) all the parents of public school children who own or lease real property in the state, who pay local property taxes and who do not have sufficient independent financial resources to pay for private educational alternatives for their children. Defendants were the Treasurer, Attorney General, Commissioner of Education and members of the State Board of Education of Connecticut, as well as various local officials of Darien and West Hartford as representatives of the treasurers, tax collectors and superintendents of schools in all the towns in the state.

Description. This was basically a *Serrano*-type challenge to Connecticut's school finance system, claiming that the system violated the equal protection clause by (1) making the quality of a child's education a function of the wealth of an entity other that the state as a whole, and (2) requiring taxpayers in poor districts to pay higher tax rates for the same or less in per pupil expenditures for public education. In addition the suit claimed that the system violated equal protection in that it made the ability of a child or his/her parents to choose state approved, private educational alternatives a function of wealth.

Status. The suit was filed on December 30, 1971, asking that a three-judge panel be convened. A complaint in intervention was filed to enjoin capital construction based on local wealth, but the intervention was denied. In June, 1973, the suit was ordered dismissed by stipulation of the parties in light of the decision in *Rodriguez.*

(Connecticut)

Peebles v. Saunders, Superior Court of Fairfield County; challenge on state and federal equal protection grounds to the state's flat grant system for financing public schools.

The Parties. Plaintiffs were public school students in the City of Bridgeport, suing through their parents. Defendants were the commissioner and members of the state board of education, the state treasurer and comptroller, the tax collector and treasurer of the city of Bridgeport.

Description. Plaintiffs claimed that because of disparities in available local property tax revenues and the unequalizing nature of the state's flat grant financing sytem, less money was spent per pupil in Bridgeport than in other cities in Connecticut and therefore the state's financing system denied plaintiffs equality of education and educational opportunities substantially equal to those enjoyed by pupils of similar age, aptitude, motivation and ability attending school elsewhere in Connecticut in violation of the equal protection clauses. They claimed that the quality of education in Connecticut was a function of the wealth of a city and of geographical accident, with no relationship to the educational needs of the plaintiffs, and perpetuated the marked differences in quality of educational services, equipment and other facilities that existed among the various municipalities.

Status. The case was filed in January 1972 and dismissed at the plaintiffs' request in June, 1973 in light of *Rodriguez.*

FLORIDA

Dade County Classroom Teachers Association, Inc. v. State Board of Education, C.A. No. 73-1687, Circuit Ct. of Leon County.

The Parties. The Plaintiff is a teachers association whose membership consisted of a large majority of classroom teachers employed in four urban Florida counties. The defendants were the State Board of Education, its commissioner, and the State Department of Education.

Description. Plaintiffs filed suit alleging that the school finance scheme for the State of Florida denied public school pupils and teachers in urban counties the educational opportunities afforded pupils in suburban and rural areas. Plaintiffs further alleged that the state's school fi-

nance scheme deprived them of equal protection of the law and denied them adequate provision for a uniform system of free public schools guaranteed by the federal and state constitutions. Plaintiffs asked the court to declare the Florida system of financing schools void and unconstitutional as depriving the children of plaintiffs' counties and other urban counties due process of law, equal protection of the laws, and an adequate provision for a uniform system of free public schools as guaranteed by the federal and state constitutions. Plaintiffs further requested that the State defendants be enjoined from enforcing their provisions of their State school finance laws and, upon a failure of the legislature to enact a constitutional system of school finance, to order such a sytem into effect.

Status. The complaint was dismissed for a failure to state a cause of action, lack of standing and other constitutional grounds. An appeal was filed to an intermediate appellate court, but the appeal was dropped one week prior to the *Rodriguez* decision.

(Florida)

Hargrave v. Kirk, 313 F. Supp. 944 (N.D.Fla. 1970), *vacated* 401 U.S. 476 (1971).

The Parties. Plaintiffs were students and their property tax paying parents who resided in sixteen of the State's 67 counties. Defendants were the State Board of Education and the State Comptroller.

Description. The plaintiffs challenged the State's "millage rollback" statute, which imposed a limit on the amount that counties could tax themselves for educational expenditures. They argued that the millage limitation, which served to undercut the ability of poor districts to raise adequate local revenues for education, violated their rights to equal protection of the law. The plaintiffs alleged that, under the statute, they could not raise enough money to meet their educational needs, because, if they chose to raise locally an amount equal to or less than the statutory limit, they would not have enough funds (even with the State's foundation grant), and, if they tried to raise locally the entire amount that they needed, they could not do so because their tax base was too low and the statute disqualified them from receiving any state financial assistance from the foundation program. Plaintiffs asked the court to enjoin the enforcement of the millage rollback statute and to declare it null and void.

Status. The case was dismissed by a single judge federal district court. The U.S. Court of Appeals for the 5th circuit reversed the district court's jurisdictional rulings and remanded with directions to convene a three judge district court. On May 8th, 1970 the three

judge district court declared the millage rollback statute unconstitutional as a violation of equal protection and enjoined any further withholdings under the statute. (*See*, 313 F. Supp. 944). In the spring of 1971, the U.S. Supreme Court vacated the three judge court decision and remanded the case for further proceedings. (401 U.S. 476). Subsequently, the state of Florida enacted an entirely new school finance system, and the *Hargrave* suit was dismissed by plaintiffs.

(Florida)

The School Board of Orange County v. State Board of Education of the State of Florida, C.A. No. 72-243-ORL-CIV, D.C., M.D. Fla. A *Serrano*-type suit.

The Parties. Plaintiffs were the Orange County Board of Education, the local school superintendent and local taxpayers who were parents of public school children attending school in Orange County. The defendants were the State Board of Education and various other State officials.

Description. Plaintiffs filed a *Serrano*-type complaint, asking the court to enjoin the State school finance system, to declare it void as a violation of the fourteenth amendment to the U.S. Constitution and require the defendants to reallocate all funds available for financial support of the public schools and to restructure the educational finance system so as not to violate the equal protection provisions of the fourteenth amendment to the U.S. Constitution.

Status. On October 10, 1972 the defendants filed a motion to dismiss. The case was subsequently dismissed by a motion of the plaintiffs after the U.S. Supreme Court announced its decision in *San Antonio Independent School District v. Rodriguez*.

GEORGIA

Battle v. Cherry, 339 F. Supp. 186 (1972). U.S.D.C., N.D. Ga., (Atlanta Division): challenge to the method used to determine the level of required local effort of an independent school system located within a county system for participation in the Georgia Minimum Foundation Program.

Parties. Plaintiffs were black residents and taxpayers of the Dekalb-Atlanta independent school system and parents of children attending school in that system. They attempted to bring the suit as a class action, but the three-judge federal court refused to allow the class action since they felt that plaintiffs could not adequately represent

the interests of the class. Defendants were the superintendent of schools and members of the Board of Education of Dekalb County, the Superintendent of Schools, the Revenue Commissioner, the Attorney General, the Audotor and the Treasurer of the State of Georgia, and the members of the State Board of Education.

Description. Plaintiffs claimed that the required local effort section of the Minimum Foundation Program violated the equal protection clause of the fourteenth amendment, since the section required the responsibility to be prorated in such a way that taxpayers in independent school district bore a proportionately higher tax burden and children in those districts received proportionately less benefits than those in the county school system. In a 1966 case that had been brought challenging this same provision, the State Supreme Court upheld the provision and the state legislature amended the act to phase out the proration over a period of years.

Status. The suit was filed in 1971 and dismissed in February, 1972 on *res judicata* grounds, based on the 1966 state court suit. In dismissing the case the court noted that the *Serrano* principle was inapplicable to the Georgia case, since factually, the cases were different and the proration scheme was originally designed to help low wealth districts. The court did not express any disagreement with the *Serrano* principle.

(Georgia)

Dunn v. *Hendricks*, Civ. Action No. 16900, U.S.D.C., N.D. Ga., (Atlanta Division); *Rodriguez*-type challenge to Georgia's Minimum Foundation Program.

The Parties. Plaintiffs were (1) the members of the Whitfield County Board of Education, (2) members of the class of all persons who live and own property in the Whitfield County School District and who pay taxes to support the district's public schools, and (3) members of the class of children and their parents who live and attend the public schools of Whitfield County. Defendants were the members of the Georgia State Board of Education, the State Superintendent of Education and the Attorney General of Georgia.

Description. Plaintiffs claimed that the Minimum Foundation Plan, the use of the "school district" unit for allocating state education funds and the state's constitutional requirement that all money collected for school purposes within a district must be used solely within the district in which it is collected, are in violation of the equal protection clause of the fourteenth amendment. They claimed that the finance system denied school children of equal educational opportunity by making the quality of education a function of district wealth

and forced taxpayers in poor districts to pay higher taxes for educational programs that were the same or inferior to those offered in wealthier districts.

Status. The suit was filed on July 24, 1972 and was consolidated with another similar case, *McKinney v. State of Georgia*, (Civ. Action No. 16964), shortly thereafter. The case was tried before a three-judge panel in December 1972, following closely the pattern of evidence presented in *Rodriguez*. In light of the decision in *Rodriguez*, the plaintiffs requested that the case be dismissed without prejudice and the Attorney General agreed.

ILLINOIS

Blase v. State of Illinois, Nos. 45273-45301 Cons., Supreme Court of Illinois; Action to require the State of Illinois to provide not less than 50% of the funds needed to operate and maintain public elementary and secondary schools. [*Cite*, 302 N.E. 2d 46 (Ill.Sup.Ct.1973)].

The Parties. Plaintiff in the first of these consolidated actions (*Blase v. Martwick*) was a taxpayer and parent of public school children on behalf of the class of all those similarly situated. Defendants were the State of Illinois, the State Superintendent of Public Instruction, the school district where the plaintiff and daughter reside and the Cook County Superintendent of Schools.

Plaintiff in the second action (*Sharboro v. State of Illinois*) was a taxpayer and resident of Chicago. Defendants were the State of Illinois and State Superintendent of Public Instruction.

Description. Plaintiffs contended that Section 1 of Article X of the Illinois constitution which reads: "The State has the primary responsibility for financing the system of public education" required the state to provide not less than 50% of the funds needed to operate and maintain the state's public elementary and secondary schools. They asked the court to declare invalid the state's school finance system since it did not provide the requisite 50% of the costs of education throughout the state. In an amicus brief in support of the plaintiffs the Chicago Region, Parent Teachers Association asked the court to decide the case without limiting the power of the judiciary to deal with other constitutional claims, not then before it, respecting the provision of public education (i.e. potential cases dealing with the requirement that the state provide "an efficient system of high quality public educational institutions and services" (Art. X § 1)).

Status. The *Blase* case was filed on September 1, 1971 and the *Sharboro* case on October 5, 1971. The Superintendent of Cook County, originally a defendant in the *Blase* case, brought suit in January 1972 in the Circuit Court of Cook County (*Martwick v. Illinois*,

No. 72-CH-297) on basically the same theory as the plaintiffs in *Blase* and *Sharborn*. The *Marwick* case was removed to the U.S. District Court in October 1972 (N.D. Ill. No. 72-C-436) and was ultimately dismissed voluntarily by the plaintiff after remand to the state court and realignment of *Marwick* as a plaintiff in *Blase*.

On June 7, 1972 the trial judge granted the defendants' motion for summary judgment and dismissed the consolidated complaints. The plaintiffs then appealed to the Supreme Court of Illinois. On September 25, 1973 the Illinois Supreme Court held for the defendants in an opinion that was focused narrowly on the language of the specific constitutional provision under consideration. It held that in view of the history of the provision and the intent of its sponsors, it was meant, not to impose a specific obligation on the legislature, but to articulate a goal of the state to assume primary responsibility for financing public education.

(Illinois)

Melnnus v. Shapiro, 193 F. Supp. 327 (1968), aff'd. 394 U.S. 322, 89 S. Ct. 1197 (1969); challenge to Illinois' school finance system which permitted wide variations between districts in per pupil expenditures without regard to educational need.

The Parties. This was a class action on behalf of all public school children in four school districts in Cook County and their parents. Defendants were the Governor, Superintendent of Public Instruction, Treasurer and Auditor of the State of Illinois.

Description. Plaintiffs claimed that the Illinois school finance system violated the fourteenth amendment's equal protection and due process guarantees because they permitted wide variations in per pupil expenditures from district to district. Plaintiffs were students in districts that had lower expenditures but had educational needs equal to or greater than those of pupils in high spending districts.

Status. Defendants moved to dismiss the complaint (1) for lack of jurisdiction and (2) for failure to state a cause of action. The three-judge panel concluded they had jurisdiction, but dismissed the complaint on November 15, 1968 stating that no cause of action was stated. They based their decision on the following. (1) the fourteenth amendment does not require that public school expenditures be made only on the basis of pupils' educational needs, and (2) that the case was non-justiciable since it presented no judicially manageable standards to determine when the Constitution was being violated. The U.S. Supreme Court affirmed the three-judge panel without opinion on March 24, 1969.

(Illinois)

Rothchild v. Bakalis, Civ. No. 71-C-2863, U.S. District Court, Northern District of Illinois (Eastern Division); challenge to the section of Illinois' school finance system that provides monetary incentives to school district consolidation.

The Parties. Plaintiffs were a high school district in the suburban Chicago area, a student attending high school in that district and his father. The Superintendent of the Educational Service Region of Lake County was originally aligned as a defendant, but requested the court to realign him as a plaintiff and filed an amended complaint against the Board of Education of the City of Chicago. The other defendant was the Superintendent of Public Instruction of the State of Illinois.

Description. Plaintiffs challenged the formula apportioning state equalization aid which required a different qualifying levy for unified (K-12) school districts than for dual districts (one or several elementary districts that are coterminous with a high school district). They claimed that the system resulted in higher tax rates, lower equalization aid and an inability to benefit from special density increases in state aid for dual districts. They claimed that these differences violated the equal protection clauses of the U.S. and Illinois constitutions, since the differences were based solely on district organization — an unlawful classification.

Defendants countered, saying that the classification was based on the legitimate purpose of promoting district consolidation into larger, more economical and more efficient school districts which could reduce administrative costs while improving the level of education. They also claimed that plaintiffs could avoid the differences in aid by simply exercising their option to consolidate into a unified district.

Status. The suit was originally filed in November of 1971. A legislative change corrected to some extent the alleged inequity, and the suit was voluntarily dismissed without prejudice.

INDIANA

Jenson v. State Board of Tax Commissioners, No. 24,474, Circuit Court of Johnson County (Originally titled *Spilly v. State Board of Tax Commissioners*). *Serrano*-type challenge to taxable wealth as a determinant of educational expenditures.

The Parties. Plaintiffs were public school children from tax poor school districts in three counties and their parents. The defendants were state tax and fiscal officers.

Description. Plaintiffs filed a *Serrano*-type complaint alleging that the Indiana school finance system was unconstitutional under the

equal protection provisions of the United States and Indiana constitutions.

Status. The complaint was filed on June 16, 1971. On January 15, 1973, after a trial, the court found for defendants. The decision was not appealed.

(Indiana)

Perry v. Whitcomb, Circuit Court of Marion County. Challenge on the state and federal constitutional grounds to the effect of district taxable wealth on education expenditures.

The Parties. Plaintiffs are property owners and the students. They sue only as individuals and not as class representatives. Defendants are state and local school and tax officials.

Description. Plaintiffs claim that the state has granted certain citizens privileges or immunities and has exempted certain property from taxation by not assessing intangible personal property, in violation of provisions of the Indiana constitution; that the school finance provisions totally exempt from taxation persons receiving equal or superior benefits and who have equal or superior income to the plaintiff in violation of the Indiana constitution, and that the state by imposing a statutory maximum tax levy for education has failed to provide a general and uniform system of common schools as required by its constitution since plaintiffs' district has reached the maximum but its schools still do not provide a quality of education equal to that provided in other school districts in Indiana.

Status. Case was filed in November, 1971. The case became inactive awaiting the outcome of *Rodriguez* and has not been reactivated. No pleadings other than the complaint have been filed, and the suit is presumably terminated.

KANSAS

Caldwell v. Kansas, District Court of Johnson County, No. 50016, *Serrano*-type challenge to Kansas' school finance system.

The Parties. This was a class action representing all public school children, their parents and all real property owners who were taxed to operate the public school system in Kansas except those who resided in that school district with the greatest educational opportunities and the greatest per pupil wealth in the State. Defendants were the State Board of Education, the State Director of Property Valuation and the Johnson County treasurer, county clerk, Unified School District No. 232 and its board of education as representatives of all county treasurers, clerks, school districts and school boards.

Description. Plaintiffs challenged the Kansas school finance system claiming that it made the quality of public education a function of family or school district wealth, other than the wealth of the state as a whole. They argued that the equal protection clauses of the state and federal constitutions required a fiscally neutral school finance system. In addition to the attack on the general foundation program, plaintiffs challenged the state's "taxlid" provision that allowed only a five percent increase in local school expenditures each year, thus locking-in low spending districts, and the county-wide economic index for distributing state aid which penalized poor districts within wealthy counties without any relation to need.

Status. On August 30, 1972 the Johnson County Court, in a memorandum decision held the Kansas system unconstitutional, saying that education is a fundamental interest under the Kansas constitution and that there was no compelling state interest for the system. The court was careful not to attack the property tax system per se, but ordered the legislature to re-allocate funds and restructure the finance system so that differences in taxable wealth would not affect educational quality. The case was not appealed.

The 1973 session of the Kansas legislature passed a new School Equalization Act and the parties asked that the court approve the new legislation. On July 4, 1973 the court issued a memorandum decision, approving the School Equalization Act and distinguishing the factual situation in Kansas from the circumstances present in *Rodriguez.*

(Kansas)

Hergenreter v. Kansas, U.S.D.C. (Dist. of Kansas), No. 7-5050. *Serrano*-type challenge to Kansas' school finance system.

The Parties. This was a class action on behalf of all public school pupils except those in the school district with the greatest real property wealth per pupil and on behalf of all real property owners who are subject to taxation to support school district operations. The defendants were the State Commissioner of Education, Board of Education, Controller of the State Department of Administration and State Treasurer.

Description. The plaintiffs claimed that the Kansas Foundation Program violated the equal protection clause of the fourteenth amendment.

Status. The suit was filed in November, 1971. In light of (1) the *Caldwell* decision, (2) *Rodriguez* and (3) the passage of the new School Equalization Act, the suit was dismissed without prejudice on May 21, 1973.

(Kansas)

Wiley v. Kansas, U.S.D.C. (Dist. of Kansas), No. KC-3537, challenge to the use of property taxes as the basis for Kansas' school finance system.

The Parties. This is a class action on behalf of all owners of real and personal property in Kansas who are subject to tax levies for school district operation or for bonds for school construction. Defendants are the State Attorney General, Board of Education, Director of Property Valuation and the County Treasurer and clerk of Leavenworth County.

Descriptions. Plaintiffs challenge the local property tax basis for school finance in Kansas claiming that it discriminates against owners of real and personal property and against property owners in low-wealth school districts in violation of the equal protection clauses of the state and federal constitutions.

Status. The suit was filed on May 17, 1972 and has remained basically dormant since that time. At last word the case had not been dismissed, but presumably it is terminated.

KENTUCKY

Baker v. Strode, 348 F. Supp. 1257 (W.D. Ky. 1971) (Three-Judge Court). Challenge to the educational inequalities resulting from the Kentucky "millage rollback" statute.

The Parties. Plaintiffs are school children and their tax-paying parents. Defendants are members of the board of education in plaintiffs' school districts, the members of the state board of education and the superintendent of public instruction. The Kentucky Farm Bureau Federation was permitted to intervene as an additional defendant.

Description. In 1965 the Kentucky Court of Appeals held in *Russman v. Luckett*, 391 S.W. 2d 694, that the state constitution required all non-exempt property to be assessed at 100% of fair tax value. Prior to that decision assessment ratios among taxing jurisdiction varied widely. In response to that decision the Kentucky General Assembly enacted a "millage rollback" law which restricted school districts to the revenue from local property taxes produced in 1965 plus fixed increases in the two subsequent years. To exceed these limits a school district referendum was required. The result of the rollback statute was to perpetuate the inequities and the statutory maximum tax rate which was based on assessed valuation rather than full cash value. This resulted in discrimination (a) between wealthy and poor districts in the amount of funds that could be raised locally and (b) between districts of equal wealth, which prior to 1965 had

had different assessment ratios. Plaintiffs claimed that the rollback law arbitrarily and unreasonably limited the amount a local district could raise for the education of children, bore no rational relation to to a district's educational needs, resources or to the capacity or will of its citizens to support education. Education benefits were arbitrarily allocated on the basis of the assessment ratio prevailing in the district in 1965. Plaintiff claimed that this also violated the taxpayers' rights as well as the students' under the equal protection clause of the 14th amendment.

Status. On September 26, 1972, a three-judge federal court held that the Kentucky "millage rollback" provision was not in violation of the 14th amendment's equal protection clause. The court found that basing the maximum effective local property tax rate on each individual district's historical assessment and educational expenditure experience was a rational way to distinguish between districts. The court held the law constitutional on the basis of local control since a local school board's taxing authority is based on its level of taxation in 1965, and if the district wished to exceed that amount it could by popular referendum. The court was of the opinion that dollar discrepancies are not conclusive of unequal educational opportunities. No appeal was taken from this decision.

MAINE

Lahaye v. Maine, Superior Court, State of Maine, Civil Docket No. 927; *Serrano*-type challenge.

The Parties. This was a class action on behalf of all public school children, their parents and property taxpayers except those in the school administrative unit which affords the greatest wealth per pupil. Defendants were the State of Maine, its Attorney General, Treasurer, Commissioner of Education, Board of Education, Controller, Tax Assessor and representatives of the class of municipal treasurers, tax collectors and assessors and the class of superintendents, boards and committees of public school administrative units.

Description. Plaintiffs claimed that the Maine school finance system violated the equal protection clauses of the state and federal constitutions.

Status. The suit was filed on January 14, 1972. Prior to trial the plaintiffs voluntarily dismissed the suit in light of *Rodriguez*.

MARYLAND

Parker v. Mandel, C.A. No. 71-1089-H (D.C., D.Md.). *Serrano*-type case.

The Parties. Plaintiffs were taxpayers, and parents of children residing in the city of Baltimore. Defendants were the governor, state revenue and educational officials and the mayor, city council and director of finance of Baltimore.

Description. The original complaint was of the *Serrano*-type with the variation that it was alleged that Baltimore City faced special educational problems resulting from concentrations of culturally deprived children of lower income groups, and as a result there is a direct and substantial relationship between the relative amount spent on education by districts and the quality of education afforded, except with respect of Baltimore City. Thus the case sought to introduce the urban factor into a *Serrano*-type suit. Subsequent to the filing of the original complaint an amended complaint was filed in which the Baltimore city officials were realigned as plaintiffs, the wealthiest school district in Maryland was added as a defendant by order of court, and the urban factor allegation was eliminated. The court dismissed the class action allegation since it concluded that if plaintiffs were successful, complete relief could be granted by a declaratory decree in an individual action. On June 14, 1972, the court overruled defendants' motions to dismiss, however, it held that the appropriate test for judging the constitutionality of the Maryland school finance system was the reasonable basis test rather than strict scrutiny. On October 30, 1973, subsequent to *Rodriguez*, the case was dismissed.

MICHIGAN

Milliken v. Green, Supreme Court of Michigan, No. 53,809 (Circuit Court No. 136064-C). *Serrano*-type challenge to Michigan's school finance system.

The Parties. Plaintiffs were the Governor and Attorney General of Michigan acting on behalf of all of the people of Michigan. Defendants were the State Treasurer and three wealthy, high spending Michigan school districts.

Description. In an unusual reversal of parties the Governor and Attorney General argued that the legislatively determined school finance system violated the equal protection clauses of the state and federal constitutions by failing to equalize educational opportunities and overburdening taxpayers in low-wealth school districts. The complaint referred to Article VIII, Section 2 of the 1963 Michigan Constitution that requires the legislature to maintain and support a system of free public elementary and secondary schools as defined by law.

Status. The suit was originally filed on October 15, 1971. The defendants sought to have the case removed to the U.S. district court, but on November 16, 1971 the district court abstained and remanded the case back to the state court for hearing and decision. On December 3, 1971 Governor Milliken issued an executive message asking that the questions at issue be certified to the Michigan Supreme Court for consideration. On January 5, 1972 the Michigan Supreme Court certified the questions presented and ordered the trial court to compile a record and briefs and make findings of fact that the supreme court could use as a basis for its review.

The month-long trial began on March 27, 1972 and the trial judge presented his findings of fact to the supreme court on May 9, 1972. The supreme court heard oral argument on June 6, 1972 and on December 29, 1972, in a 4-3 decision, held for the plaintiffs. The decision made it clear that under Michigan's constitution, education was a fundamental interest and that it required a substantially equal distribution of educational funds on a per pupil basis. [*Cite*, 203 N.W. 2d 457 (1972)]

In January 1973 the court granted the defendants' motion for a rehearing. The 1973 legislative session then enacted a new school finance formula that achieved a somewhat more equitable distribution of education funds. On December 7, 1973 the Michigan Supreme Court dismissed the case and vacated its previous opinion.

(Michigan)

Montgomery v. *Milliken*, Circuit Court for County of Ingham: *Serrano*-type challenge to Michigan's school finance system.

The Parties. This was a class action on behalf of all public school pupils and all parents of such children who pay real property taxes except those in the school district with the highest per pupil taxable wealth within the State of Michigan. Defendants were the Governor, Attorney General, Superintendent of Public Instruction and controller of Michigan.

Description. Plaintiffs claimed that the Michigan school finance system violated the equal protection clauses of the state and federal constitutions.

Status. The suit was filed on October 27, 1971. At last word no further pleadings had been filed and it is assumed that the suit has been dismissed in light of *Milliken* v. *Green* and *Rodriguez*.

MINNESOTA

Minnesota Federation of Teachers v. *Hatfield*, C.A. No. 4-71458 (D.C.D., Minn.).. *Serrano*-type suit.

The Parties. Plaintiffs were the Minnesota Federation of Teachers, taxpayers and their school age children. Defendants are state and local tax and local education officials.

Description. The plaintiffs claimed that the variations in educational expenditures between districts discriminated against students, taxpayers and teachers. The claim was based both on the equal protection clause of the 14th amendment and the Minnesota constitution's requirement of a general and a uniform system of education.

Status. The case was filed on September 2, 1971 and consolidated with *Van Dusartz* v. *Hatfield*. Plaintiffs, like the plaintiffs in *Van Dusartz*, dismissed their action following the Minnesota legislature's revision of the school finance formula.

(Minnesota)

Minnesota Real Estate Taxpayers Association v. *Minnesota*, C.A. No. 3-71-237 (D.C.D. Minnesota). *Serrano*-type suit.

The Parties. Plaintiffs were the Minnesota Real Estate Taxpayers Association, school children and their taxpaying parents. Defendants were the state of Minnesota, the governor and state education and tax officials. The allegations of the complaint were similar to those in *Serrano*. The Minnesota system was alleged to violate both the 14th amendment and the Minnesota constitution's requirement of a general and uniform system of public schools.

Status. Case was consolidated with *Van Dusartz* v. *Hatfield*, but was not dismissed with its two companion suits. However, after *Rodriguez*, it was voluntarily dismissed.

(Minnesota)

Van Dusartz v. *Hatfield*, C.A. No. 3-71-743 (D.C.D. Minn.). *Serrano*-type suit. [*Cite*, 334 F. Supp. 870 (D. Minn. 1971)]

The Parties. Plaintiffs were taxpaying parents and their children. Defendants were state and local tax and educational officials.

Description. Plaintiffs filed a *Serrano*-type complaint. On October 12, 1971 the court, in a written opinion overruling defendants motion to dismiss, concluded that the "level of spending for a child's education may not be a function of wealth other than the wealth of the state as a whole." The court, in this pre-*Rodriguez* decision, held education to be a fundamental interest and wealth a suspect classification, and, in sustaining plaintiffs' complaint, effectively overturned the Minnesota school finance system.

Status. On October 30, 1971 the legislature enacted a revised school aid formula. Although the new formula did not meet the strict constitutional standards set forth in the court's order, plaintiffs dismissed the case, without prejudice, because they believed the state was moving in the right direction and should be given an opportunity to further consider reform measures.

MISSOURI

Spencer v. Mallory, Civ. Action No. 20058-2, U.S. District Court for the Western District of Missouri (Western Division); *Rodriguez*-type challenge to Missouri's public school finance plan.

The Parties. This was a class action on behalf of (1) all public school children in Missouri except for those in the school district with the highest per pupil taxable wealth, (2) the parents of these children who own or rent homes or real property taxed to support local school districts, and (3) teachers and other school employees represented by the Missouri Federation of Teachers. Defendants were the State's Commissioner of Education, Auditor, Treasurer, Director of Department of Revenue, and Board of Education as well as representatives of local school districts, school boards and school officials.

Description. Plaintiffs claimed that the Missouri school finance plan violated the fourteenth amendment by (1) making educational quality a function of wealth without taking into account educational needs, (2) requiring some taxpayers to pay higher local taxes for the same or lesser educational opportunities, and (3) denying to public school employees professional opportunities and the unrestricted ability to carry out their legal responsibilities.

A second count asked the three-judge court to issue a temporary restraining order enjoining the Kansas City school district from making threatened budget cuts made necessary by the alleged illegal school finance system.

Status. The suit was originally filed on January 21, 1972. Plaintiffs' TRO was denied on January 24, 1972. On April 4, 1973, the three-judge panel dismissed the suit in light of the result in *Rodriguez*.

(Missouri)

Starr v. Mallory, No. 753, 356, Circuit Court at Jackson County; *Serrano*-type challenge to Missouri's school finance plan.

The Parties. This was a class action on behalf of all public school children in Independence, Missouri and all school children in the state, their parents and all taxpayers except those in the school district with the greatest educational opportunity in Missouri. The Independence, Missouri school board was also a plaintiff. Defendants were the State's

Commissioner of Education, Board of Education, Treasurer, Governor, Secretary of State, Auditor, representatives of the state legislature, numerous other state officials and the local revenue officials of Jackson County, Missouri.

Description. Plaintiffs claimed that the state's school finance system violated the state and federal equal protection clauses in that it did not provide an equal basis for the education of each child in Missouri. They also claimed that a disproportionate number of black and other minority pupils reside in low wealth districts, thus receiving inferior educational opportunities.

Because of this alleged unconstitutional finance system, plaintiffs alleged that the schools in Independence, Missouri would be closed for the 1972-73 school year since they would be unable to raise sufficient funds to keep the schools open for 180 days, required as a prerequisite to receiving state aid.

Status. The suit was originally filed on November 10, 1971. The suit has been dismissed, presumably in light of *Rodriguez*.

(Missouri)

Troch v. Robinson, No. 753355, Circuit Court of Jackson County; challenge to Missouri's school finance scheme and to the 180 school day minimum requirement for school districts to receive state aid.

The Parties. Plaintiffs were public school children and their taxpayer parents who resided in Independence, Missouri. Defendants were the State's Treasurer, Attorney General, Board of Education, Director of the Department of Revenue, the Independence School District, and the Treasurer of Jackson County.

Description. Plaintiffs challenged the Missouri school finance scheme, claiming that it violated the equal protection clauses of the state and federal constitutions by denying plaintiffs educational opportunities substantially equal to those enjoyed by public school children elsewhere in the state. They based this on the fact that the public schools in Independence were closed from November 1 through November 15, 1971 because of a lack of funds and on plaintiffs' contention that they were required to pay higher local taxes while receiving equal or lesser educational opportunities than taxpayers elsewhere in the state.

Plaintiffs also challenged specifically that provision in the school finance scheme requiring a district to have 180 school days as a prerequisite to receiving state aid. They claimed that this was a violation of Missouri's constitutional provision requiring the general assembly to "establish and maintain free public schools for the gratuitous instruction of all persons in this state. . . ." (Article IX, Section 1(a)).

Status. The suit was originally filed on November 10, 1971. A series of pleadings, including an unsuccessful motion to dismiss, were

filed through August 1972 when the parties agreed to suspend the proceedings pending the outcome in *Rodriguez*. Although the suit had not been officially dismissed at last check, it has been effectively terminated.

NEBRASKA

Rupert v. Exon, Civil Action No. 72-0-142 (D.C.D. Neb.) *Serrano*-type suit.

The Parties. The suit was brought by several property taxpayers and one public school student from the school district of Papillion, Nebraska. Defendants in the case were the Governor, the Treasurer, the Commissioner of Education and the State Board of Education for the State of Nebraska. Also included as defendants were the local treasurer and Assessor for the county in which the Papillion School District is located.

Description. The complaint filed was patterned closely after the original *Serrano* complaint. It described the state school financing system as one in which expenditures are a function of local wealth, and, since there are wide disparities in the per capita property tax-bases of the State's school districts, there is a corresponding wide disparity in the per-pupil expenditures throughout the state. The parties requested the courts to declare unconstitutional and enjoin the State's school finance system as a violation of the equal protection clause of the U.S. Constitution.

Status The suit was filed in 1972 in U.S. District Court. After the U.S. Supreme Court announced its decision in *Rodriguez*, the Rupert case was dismissed upon motion by plaintiffs.

NEW HAMPSHIRE

Birch v. New Hampshire, C.A. No. 72-13 (D.C.D. N.H.). *Serrano*-type suit.

The Parties. Plaintiffs were school children, their parents and a professional teacher organization. The defendants were the State of New Hampshire, the attorney general, and state and local education and tax officials.

Description. Plaintiffs used the model school finance complaint, alleging that the New Hampshire school finance system makes the expenditures for a child's public education a function of the taxable wealth per pupil of the school district in which he resides, in violation of the 14th amendment and the New Hampshire constitution.

Status. Prior to the Supreme Court's decision in *Rodriguez*, a three-judge court was empanelled to hear the case. After discovery

and other pretrial proceedings, the case was stayed pending the outcome of *Rodriguez*. Subsequently, it was voluntarily dismissed by plaintiffs.

NEW JERSEY

Robinson v. *Cahill*, 62 N.J. 473, 303 A.2d 273 (1973).

The Parties. Plaintiffs included the mayors, members of the city councils and boards of education for five property poor New Jersey cities. Also included as plaintiffs were a student and a tax-payer from the Jersey City School District. The defendants were the Governor, Treasurer, Attorney General, Commissioner of Education, the two houses of the State legislature, and their leaders.

Description. The plaintiffs charged in a sixteen count complaint that the New Jersey system of public school finance was unconstitutional for the following reasons: It makes the quality of education dependent on the wealth of each district and not the state; it places an unequal burden on property tax owners who live in low property tax value districts; the public officials in these poor districts are unable to provide equal educational opportunity; the minimum educational needs of students in these districts are not being met; the delegation to these districts to run schools was done without adequate standards; the schools are not being maintained thoroughly and efficiently as required by the state constitution; school district boundaries deprived plaintiffs of the power to spend what they want on education; and, finally, the current system promotes racial discrimination. Plaintiffs asked the court, *inter alia*, to declare the current educational finance scheme unconstitutional and to order the defendants to restructure the scheme in a manner not violative of the U.S. and New Jersey constitutions. Further, plaintiffs asked the court to order the defendants to change the boundary lines of the districts in a way that would equalize the amount of tax-base per student and that would eliminate the complained of discrimination. Finally, the plaintiffs asked the court to declare the State's real property tax unconstitutional to the extent it is used for public school support and to direct the defendant to enact laws equalizing those taxes on a state-wide basis.

Status. The suit was filed in the Superior Court of Hudson County, New Jersey in early 1970. A trial was held in late 1971, and on January 19, 1972, the court held that the New Jersey school finance system violated the education clause of the state constitution and denied the plaintiff the equal protection of the laws under both the state and federal constitution. [*Cited*, 118 N.J. Super. 223, 287 A.2d 187 (1971)]. (Div. 1972). On appeal to the New Jersey Supreme Court, the decision was affirmed on the basis that the New Jersey school finance system violates the state constitutional mandate to provide a

"thorough and efficient" education. [*Cite*, 162 N.J. 473, 303 A.2d 273 (1973)]. The Supreme Court of New Jersey ordered the State to develop and enact a constitutional system of school finance by December 31, 1974 and to implement that system by July 1, 1975. The defendant leaders of the New Jersey state legislature petitioned the Supreme Court of the United States for *certiorari*, but their petition was denied. [*Cite*, 42 LW 3246 (10/23/73)].

NEW YORK

Spano v. Board of Education of Lakeland Central School District, 328 N.Y.S. 2d 229, 68 Misc. 2d 804 (Sup. Ct., Westchester County, 1971). Suit claiming taxpayer discrimination in the funding of education.

The Parties. Plaintiff was a taxpayer and parent. Defendants were the attorney general of New York and state and local finance and education officials.

Description. The complaint charged that the New York School Finance system discriminated against taxpayers in poor school districts by requiring them to pay higher taxes to provide public education for children in their district. Although filed in state court, the suit was based solely on the equal protection clause of the 14th amendment to the U.S. Constitution.

Status. The case was filed in October 1971. The trial court on January 17, 1972, dismissed the complaint, believing that the issues were controlled by the *per curiam* opinions of the United States Supreme Court in *McInnis v. Shapiro*, 293 F. Supp. 327, *aff'd. sub nom. McInnis v. Ogilvie*, 394 U.S. 322 and *Burruss v. Wilkerson*, 310 F. Supp. 572, *aff'd* 397 U.S. 44. No appeal was taken from the trial court's dismissal.

(New York)

Thompson v. State University of New York, 72 Civ. 3279 (D.C.S.D. N.Y.) *Serrano*-type suit.

The Parties. Plaintiffs were school children and their parents. Defendants were the attorney general and education and tax officials of the state of New York.

Description. The complaint, which is similar to the model complaint, alleged that the New York School Finance system, which makes expenditures for the public school education a function of the local real property wealth of a child's school district, rather than of the wealth of the state as a whole, violates the equal protection clause of the 14th amendment.

Status. The case was filed in 1972. Proceedings were held in abeyance pending the outcome of *Rodriguez*, thereafter it was dismissed.

OHIO

Ohio Education Association v. Gilligan, C.A. No. 71-359 (D.C.S.C. Ohio). *Serrano* type suit.

The Parties. Plaintiffs were property owning parents, their children and the Ohio Education Association. Defendants were the state governor, the state board of education, and state, county and local education and fiscal officers. County and local officials are sued as class representatives of all such officials in the state.

Description. Plaintiffs filed a *Serrano*-type complaint. The court, in its ruling on the priority of the classes of plaintiffs and defendants, restricted the plaintiff class to those children in districts whose taxable wealth per pupil is beneath the state average, rather than all children in the state except those living in the district of greatest wealth per pupil. The Cincinnati board of education, a district of above average wealth, sought to intervene as a defendant, as a matter of right. The court denied that motion but permitted permissive intervention to represent the class of children and the parents from districts of above average wealth.

Status. The case was stayed pending the outcome of *Rodriguez*, and subsequently was dismissed in April 1973.

(Ohio)

Ohio Farmers Union v. Gilligan, No. C-72-146, *Serrano*-type suit.

The Parties. Plaintiffs are a taxpayer, student and the Ohio Farmers Union. The defendants are the state governor, the state board of education and state, county and local education and fiscal officers. County and local officials are sued as class representative of all such officials in the state.

Description. The original complaint filed in 1972 was very similar to that in *Serrano*. Subsequent to *Rodriguez*, an amended complaint was filed which, while similar to the earlier complaint, made several new allegations that the plaintiff's class consisted, in addition to all children and taxpayers except those in the wealthiest school district, of all landowning farmers and their school children, and consumers of agricultural products in Ohio who allegedly pay higher food prices because of the elimination of competition in agriculture due to small family farmers being forced off the land due to the real property tax burden. Plaintiffs claim that the inequalities in school funding resulting from property taxation tend to create a monopoly in Ohio agri-

culture for large corporate farm operations, and that the financing scheme discriminates against rural areas in favor of urban areas. The suit is based on the equal protection clause of the 14th amendment and the Ohio constitution's requirement of a general and uniform system of education.

Status. Defendants filed a motion to dismiss based on the Supreme Court's decision in *Rodriguez*, and the case was dismissed.

PENNSYLVANIA

Deni v. *Shapp*, No. 72-1710 (D.C.D. Pa.). *Serrano*-type suit.

The Parties. The plaintiffs are parents, children and property owners in the Bristol Township School District in Bucks County. The defendants are the governor, treasurer and the attorney general of the state and the Pennsylvania senate and generally assembly and their leaers.

Description. Plaintiffs filed a 16 count complaint which essentially is a *Serrano*-type complaint with several variations; in addition to the classes of parents, children and taxpayers in *Serrano*, the *Deni* case also alleged discrimination against classes of property owning farmers and senior citizens.

Status. Filed in September, 1972. It was held in abeyance, pending *Rodriguez*, and is presumably terminated.

RHODE ISLAND

Doorley v. Rhode Island, C.A. No. 4881 (D.C.D. R.I.) *Serrano*-type suit.

The Parties. Plaintiffs included the Mayor of Providence, Rhode Island and school children and their tax-paying parents from Providence. The defendants were the State of Rhode Island, the Attorney General, Treasurer, Commissioner of Education and the Members of the Board of Regents of the State of Rhode Island.

Description. Plaintiffs alleged that the state financing system violates both the equal protection clauses of the U.S. and state constitutions insofar as it renders expenditures for plaintiffs' public education a function of the wealth of the city or town in which each plaintiff resides. Plaintiffs asked the court to declare that they had been denied their constitutional rights to equal protection and to order the defendant to refrain from operating the present financing system except insofar as it was absolutely necessary to effect an orderly transition to a valid system for financing schools, and to afford the state legislature a reasonable time in which to restructure the State's financing scheme so as to comply with the equal protection clauses of the U.S. and Rhode Island constitutions.

Status. The suit was filed in U.S. District Court on April 6, 1972. Following the announcement of the *Rodriguez* decision by the U.S. Supreme Court, the case was dismissed.

TEXAS

Fort Worth Independent School District v. *Edgar*, Civil Action No. 4-1405, U.S. Dist. Ct. for the Northern District of Texas (Ft. Worth Division); challenge to Texas' property tax assessment procedures and their use in the school finance system.

The Parties. This was a class action on behalf of all public school children and taxpayers in Fort Worth, Dallas and Houston. Other plaintiffs were the Fort Worth, Dallas and Houston School Districts and taxpaying business partnerships in Fort Worth and Houston. Defendants were the State Commissioner of Education, Board of Education, Governor, Attorney General, Comptroller of Public Accounts and Treasurer.

Description. Plaintiffs claimed that they were being denied equal protection and due process by the manner in which the defendants had been calculating the state's Economic Index which is used to determine a school district's taxpaying ability for the purposes of allocating and distributing state education funds. They claimed that under Art. VIII, Sec. 1 of the Texas constitution, Art. 7149 V.A.C.S. and the equal protection clause of the fourteenth amendment defendants were required to have ad valorem property taxes calculated on an equal and uniform basis. Instead, they alleged that tax assessors in the 254 counties of Texas each used a different set of standards in levying and collecting ad valorem taxes, with the result that assessments ranged from 3% to 100% of fair market value. Since the Fort Worth, Dallas and Houston assessments are made at 100% of fair market value, as required by Art. 7149, plaintiffs' ability to pay is overstated relative to other school districts which are assessed at a lower level. In addition, the use of the state of the individual assessor's determinations, which vary both among counties and among school districts within counties, without setting down uniform standards for assessors throughout the state, constituted an illegal delegation of power.

Status. The suit was originally filed on February 2, 1971. An amended complaint was filed on October 19, 1971. On Oct 4, 1973 plaintiffs filed a motion to dismiss without prejudice which was granted by the court. Plaintiffs plan to refile a similar case in the state court.

(Texas)

Guerra v. Smith, Civ. Action No. A-69-CA-9, U.S. Dist. Ct., Western Dist. of Texas (Austin Division); *McInnis*-type challenge to Texas' school finance system

The Parties. This was a class action on behalf of all public school children and their taxpayer-parents in the Edgewood and San Felipe Independent School Districts. The named plaintiffs were Spanish-surnamed public school children. The defendants were the Governor of Texas, State Commissioner of Education and the Texas State Board of Education.

Description. This was a *McInnis*-type suit claiming that the Texas school finance system made the quality of a child's education a function of geographical accident and of the wealth of the child's parents and neighbors, based on the school district's taxable wealth, without taking into account the child's educational needs. They also contended that the system provided relatively inferior educational opportunities to a disproportionate number of Mexican-American and black school children. The plaintiff taxpayer-parents also claimed that the system violated the equal protection guarantee of the fourteenth amendment by subjecting them to higher tax rates for the same or lesser educational opportunities than those of residents of wealthier districts.

Status. The complaint was originally filed on January 28, 1969 and amended on May 1, 1969. On September 14, 1969 defendants moved to dismiss the complaint on the basis of the result in *McInnis*. On July 20, 1971 the court granted defendants' motion to dismiss and the dismissal was affirmed per curiam by the Fifth Circuit.

(Texas)

Rodriguez v. San Antonio Independent School District, 411 U.S. 1 (1973). *Serrano*-type suit.

The Parties. Plaintiffs were public school children and their taxpaying parents who lived in the Edgewood Independent School District. Defendants were the Texas State Board of Education and its Commissioner, the Attorney General of the State of Texas, the Bexar County School Trustees and the eight school districts located in the city of San Antonio, Texas.

Description. Plaintiffs alleged that the Texas constitution requires the State to support a free public school system and that the current school finance system established by the State denies them equal educational opportunity in that (a) it makes the quality of education received by the plaintiffs a function of the wealth of their parents and

neighbors as measured by the property values of the school districts other than Edgewood with material advantages for education, (c) it provides plaintiffs who are of substantially equal age, aptitude, motivation and ability with substantially inferior educational resources than children in defendant school districts; (d) it perpetuates marked differences in the quality of educational services; (e) it discriminates against Mexican-American school children. Plaintiffs ask the court (a) to declare that the state's system for financing schools denies them equal protection of the laws of the United States and Texas constitutions and is therefore void; (b) to preliminarily and permanently enjoin the enforcement of those Texas statutes which established the state's system for financing schools; (c) to retain jurisdiction of the action, affording the state legislature a reasonable time in which to restructure the school finance system so as to provide substantial equal education opportunity as required by the equal protection clause of the 14th amendment to the United States Constitution and Article I, Section 3 of the Texas constitution; (d) alternatively, to order the abolition of the defendant school districts in Bexar County and to require the County School Trustees to establish new boundary lines for a new school district or districts of approximately equal property tax base per child.

Status. The plaintiffs filed their suit in U.S. District Court in the fall of 1969. On October 15, 1969 the three judge court overruled the defendants' motion to dismiss but delayed action on the case for two years so as to permit the legislature to correct the inequalities in the State's school finance system. However, the legislature did not act, so on December 23, 1971 the three judge court declared the Texas system unconstitutional and ordered it corrected by 1973. [*Cite*, 337 F. Supp. 280 (1971)]. On appeal to the U.S. Supreme Court, the lower court's decision was reversed, when the Supreme Court held (a) that education is not a "fundamental interest" under the U.S. Constitution, (b) that the class of plaintiffs represented by *Rodriguez* is not a "suspect class" in the constitutional sense, and (c) that the present system of school finance in Texas, although it is unequal promotes the important interest of "local control." [*Cite*, 411 U.S. 1 (1973)]

VIRGINIA

Burruss v. Wilkerson, 310 F. Supp. 572 (1968), aff'd. 397 U.S. 44 (1969); challenge to Virginia's school finance system on fourteenth amendment equal protection grounds.

The Parties. Plaintiffs were public school students and taxpayers in Bath County. Defendants were State public school and finance officials and the clerk of the Virginia House of Delegates.

Description. Plaintiffs claimed that they were denied equal protection by the state finance system which created substantial disparities in the quality of educational programs and facilities between those available to plaintiffs, residents of a poor, rural county, and those available to residents of most other Virginia school districts. They claimed that the finance system discriminates against them by (1) limiting their local tax rates and, hence, the money for education that could be raised through local taxation and (2) relating state aid to the districts spending from local sources, thus increasing rather than decreasing disparities. They further alleged that the system fails to take into account the added costs necessary to provide substantially equal educational opportunities - buildings, equipment, teachers, etc. - in their rural areas, and claimed that the Virginia Legislature had made no attempt to deal with these disparities.

Status. The suit was originally filed in 1968. On Nov. 16, 1968 the District Court refused to grant the defendants' motion to dismiss and held that the plaintiffs were entitled to a hearing before a three-judge panel. On May 27, 1968 the three-judge panel dismissed the complaint, relying on *McInnis*, although conceding that the plaintiffs had succeeded in pointing out the existence of marked disparities in the educational system. The U.S. Supreme Court affirmed per curiam the three-judge panel's dismissal of the case.

WISCONSIN

Bedard v. Warren, Civ. Case No. 71-C-451, U.S. Dist. Ct. for the Western District of Wisconsin; *Rodriguez*-type challenge to Wisconsin's school finance system.

The Parties. This was a class action on behalf of (1) all Wisconsin's children attending public school in school districts in which the capacity to spend money for public education was adversely affected by the present school finance system; (2) all Wisconsin children whose family resources were so limited as to require them to attend public school and who attended school in the districts described above, and (3) all taxpayers residing in the above districts who were required to pay a higher tax rate than taxpayers in wealthier districts and whose children received the same or lesser educational opportunities. The defendants were the State Attorney General, Treasuere, and Superintendent of Public Instruction and the Superintendent and president of the board of education of the Wauwatosa School System.

Description. This was a *Rodriguez*-type suit which challenged the Wisconsin school finance system as violative of the equal protection clause of the fourteenth amendment.

Status. The suit was originally filed on November 26, 1971. The suit was subsequently dismissed, presumably in light of the result in *Rodriguez*.

(Wisconsin)

Bellow v. Wisconsin, No. , Circuit Court of Dane County; challenge to Wisconsin's school finance system based on state constitutional education provisions and fourteenth amendment.

The Parties. Plaintiffs were public school children and their parents residing in Kenosha, Wisconsin. Defendants were the State of Wisconsin, the State Treasurer and Superintendent of Public Instruction.

Description. Plaintiffs claimed that the Wisconsin school finance system failed to equalize disparities in educational opportunities, failed to take into account differences in the quality of available educational facilities, variations in cost, educational needs and the special problems of the disadvantaged and offered to children in Kenosha educational opportunities inferior to those offered elsewhere in Wisconsin. They claimed that this system violated the equal protection clause of the fourteenth amendment, Art. X, Sec. 3 of Wisconsin's constitution that requires the legislature to establish district schools "as nearly uniform as possible" and Art. X, Sec. 5 which requires that state school funds be distributed "in some just proportion" to the number of school age children in the state.

Status. No action was taken after the complaint was filed because of a lack of funds and the suit has been effectively terminated.

(Wisconsin)

Net Worth Tax League v. Wisconsin, (USDC ED Wis.), C.A. No. 72-C-140; challenge to the use of property taxes to finance public education.

The Parties. The plaintiff is the Net Worth Tax League, "a political committee duly recorded with the Secretary of State." Defendants are the State of Wisconsin, the State's Superintendent of Public Schools, Auditor and Treasurer.

Description. Plaintiff challenges the use of property taxes for financing public schools claiming that such use violates the equal protection clause of the fourteenth amendment in that it discriminates against children in low wealth districts which have lower educational expenditures and against persons living on Social Security payments, property owners and renters who have been forced to pay increasing property taxes or risk losing their property.

Status. The suit was filed on March 7, 1972 and the complaint asked for the convening of a three-judge panel. No further action has been reported, and it is presumably terminated.

(Wisconsin)

Stovall v. City of Milwaukee, Case No. 395-231, Circuit Court of Milwaukee County; *Serrano*-type challenge to Wisconsin's school finance system.

The Parties. This was a class action on behalf of (1) all public school children in the State except those in the school district which affords the greatest educational opportunity of all school districts in Wisconsin and (2) all parents of school children who pay real estate taxes in all school districts of the state. The defendants were the state of Wisconsin, the state Attorney General, the Governor and the class of all cities, towns, villages, counties, school boards, school districts, mayors and chief executive officers of all towns and villages.

Description. This was a *Serrano*-type suit which challenged Wisconsin's school finance system as violative of the fourteenth amendment's equal protection clause and the implied right under Wisconsin's constitution to equal opportunity for the best education.

Status. The suit was originally filed on November 17, 1971 and an amended complaint was filed on May 12, 1972. In June 1972 all defendants filed demurrers to the complaint and the case was subsequently dismissed.

WYOMING

Hinkle v. Sweetwater County Planning Commission for Organization of School Districts, 491 P.2d 1238 (Wyo. 1971).

The Parties. Plaintiffs were citizens and taxpayers of a recently redistricted school district. Defendants were the state and county committees charged with the responsibility of redistricting local school school districts.

Description. Plaintiffs contended that as citizens and taxpayers they suffered injury by having their school district redistricted by the county commission in an effort to equalize state educational opportunities in a manner that did not produce any efficient administrative unit and that was not conducted with primary consideration given to the education, convenience or welfare of their children. Plaintiffs asked the court to invalidate the plan adopted for redistricting school districts

Status. The lower state court remanded the issue to the state committee with instructions to reject the proposed redistricting plan. On appeal, the Supreme Court of the State of Wyoming, in an opinion issued only a few weeks following the California Supreme Court's decision in *Serrano v. Priest*, held that the gerrymandering of districts to provide equalized revenue sources was unsatisfactory as a solution to the problem of fiscal disparities between school districts. The court's decision, which was essentially advisory in nature, was largely based on the rationale of the *Serrano* opinion. The Wyoming Supreme Court went on to suggest that the state legislature had the responsibility to restructure the state's educational finance system. The court kept jurisdiction of the case until the legislature adjourned in 1973 (jurisdiction relinquished, 493 P.2d 1050).